

Vulnerable Immigrants Look To Legal Services

New arrivals offered a helping hand and a primer on the American justice system.

by Cynthia L. Cooper

Pil Y., a Korean-American senior citizen, had housing worries on her mind when she took her seat among sixty others at a Saturday seminar sponsored by the Asian Americans for Equality, Inc. in Queens, New York. Here, in a patch of the map that is considered the most ethnically diverse in the nation, Carl Callender held up a piece of paper. It was a legal document. Pil Y. recognized it.

“What do you do when you get something that looks like this and you don’t know what it means?” asks Callender, Executive Director of LSC-funded Queens Legal Services Corporation. His words are translated for those with less English proficiency. He continues: “Don’t ignore it, don’t throw it away. Go to somebody, get someone who can read it.” Emboldened, Pil Y. seeks out Callender immediately about her landlord’s threats and refusal to issue a new lease.

“It’s good for people to hear not to be afraid, even if they don’t speak the language,” said Margaret Chin, Deputy Executive Director of the Asian Americans for Equality, Inc. “If people don’t know their rights, they can get pushed around.”

No matter their country of origin, immigrants to the U.S. have the same nervous encounters with the legal system. In Pil Y.’s case, Callender soon found himself at the housing court in Jamaica, Queens. The landlord, it seemed, had failed to acknowledge the applicability of a senior citizen exemption under state law. To Pil Y. and other immigrant clients, the courts can be doubly alien, but attorney Callender is fluent in the spoken language: legalese.

Across the country, legal services are responding to the new faces of low-income clients and bridging a gap, sometimes a vast gulf, between populations newer to the U.S., and the justice system that is meant to help one and all. “It is a vulnerable population in terms of abuse of legal rights,”

said Cynthia G. Schneider, Deputy Director of the Office of Program Performance at the Legal Services Corporation.

Others see a stark crisis. For immigrants, the legal system is “overwhelming, incomprehensible and inaccessible due to cultural and language barriers,” says “*Equal Justice, Unequal Access: Immigrants & America’s Legal System*,” a report released earlier this year by the National Asian Pacific American Legal Consortium. While immigrants’ legal needs are high, trust is low, “rooted in their experiences in their countries of origin, where legal systems may have been dysfunctional or non-existent,” the report states. This, combined with poverty, limited English ability, and a lack of legal knowledge, creates “not merely a gap, but a wall.”

LSC-funded legal services programs, while working within the Congressional restrictions and LSC guidelines, are reaching out in increasing numbers to immigrant communities from every continent and circumstance. In accordance with LSC regulations (45 CFR 1626) and applicable laws, LSC grantees may not assist illegal aliens, according to Mattie C. Condray, Senior Assistant General Counsel at the Legal Services Corporation. But program offices may represent some income-qualified aliens, such as lawful permanent residents (“green card” holders), specified refugees and asylum seekers, certain immigrants who, as spouses, children, or parents, are related to U.S. citizens, and other specifically designated groups.

Some immigrants may qualify for a more limited form of legal representation. Migrant farmworkers with guest visas, for example, may be represented on problems related to their work contract. Victims of human trafficking (see sidebar, page 36) may be provided legal assistance if they are helping to prosecute the traffickers, and parents of children abducted to another country may also obtain legal help.

Many of these regulations are complex, note the authors



of “*Representing Immigrants: What do LSC Regulations Allow?*” (Clearinghouse Review Journal of Poverty Law and Policy, Sept-Oct 2004). In it, three specialists—National Immigration Law Center (NILC) attorney Sara Campos in Oakland, NILC Executive Director Linton Joaquin in Los Angeles, and Sheila Neville, staff attorney at the LSC-funded Legal Aid Foundation of Los Angeles—provide the most comprehensive analysis of allowable LSC representation. Many LSC-funded programs sometimes “unwittingly” turn away eligible clients, they say. In addition, they point out, in non-case-related matters of education, information and referrals, LSC-funded programs are permitted to provide important services to communities with immigrant populations.

Reflecting a large wave of immigration since 1990, legal services programs encounter wide swaths of client populations with different languages and cultures who are eligible for, and desperately need, aid of all types. Legal services offices are discovering innovative ways to serve this new clientele in both day-to-day issues, such as housing, benefits, consumer and family law, but also in unique issues, such as the reunification of families across borders.

According to U.S. Census Bureau figures, the immigrant population increased by 57 percent between 1990 and 2000. Immigrants accounted for 11 percent of the U.S. population in 2000. The vast majority, 85 percent, live in a household with at least one citizen. In total, immigrants and first-generation citizens account for 56 million people nationwide.

“Among the many vast changes that affect how and what services LSC programs provide to clients, none is more significant than the high number of immigrants that have come to the United States over the past few decades,” began a December 6, 2004, LSC program letter on evaluating services to people with limited English proficiency.

The legal services population is especially affected by the growth in immigration because of high poverty rates. According to the 2000 U.S. Census, nearly 17 percent of the immigrant population is poor, while only 11.2 percent of the non-immigrant population lives in poverty. For new immigrants, those figures rise even higher to a 23.5 percent rate.

A recent change in the geographic dispersion of immigrants also affects legal services delivery. According to research by the Urban Institute, the foreign-born population skyrocketed by 95 percent in the 1990s in nineteen states not traditionally destinations for immigrants, including far-flung locations such as North Carolina, Oregon, Mississippi and Arizona. At the same time, the immigrant population stabilized in the states to which prior immigrants tended to migrate most often—California, Florida, Illinois, New Jersey, New York and Texas.

“Programs that never had an immigrant population have to face how to serve this group,” said LSC’s Schneider. “This is a group of low income people who have special needs—they typically don’t speak English; they are new to the United States,” said Schneider. Almost 47 million people in the country speak a language other than English at home. The 2000 Census found that 11 million people do not speak English at all or poorly, a number that can multiply when the taking into account the technical language of law or medicine.

In a December 2004 memorandum, LSC President Helaine M. Barnett introduced LSC guidelines on serving eligible clients with limited English proficiency, similar to guidelines issued by the U.S. Department of Justice. “The decision whether or not to help someone should not be made on the basis of his or her language abilities,” wrote Barnett. LSC urged its programs to undertake an assess-

ABOVE: Samnung Mam of Merrimack Valley Legal Services speaks at a community legal education session.



ABOVE: Carl O. Callender (standing, right), Executive Director of Queens Legal Services Corp., speaks at a Chinese community forum.

ment of the language needs and resources among their client population.

Back in Queens, more than one-third of the 3,491 clients who had cases in 2004 had limited English proficiency. Of those using other languages, two-thirds spoke Spanish. But the next largest group spoke languages from Southeast Asian countries, followed

by speakers of Russian, Creole, French, Korean, Polish, Mandarin, Japanese, and a half-dozen other languages.

To represent this incredibly diverse group of people, the program employs many bilingual speakers among its 48 staff members, but outside translators are also necessary. The Queens office, like many others, turns to Language Line, a national telephone service of interpreters. "More and more, we have to put funds in the budget in the area of translation," said Callender. The program spends 8 percent of its \$4 million annual budget on interpreters.

While Queens helps immigrants solve problems on housing and other daily needs, Klodiana Pasha, who is originally from Albania, turned to an LSC program in Chicago for highly specialized assistance. Pasha had an immigration problem with potentially devastating consequences—deportation—and needed a lawyer who knew the way around federal appellate court. The Legal Services Center for Immigrants, a project of LSC grantee Legal Assistance Foundation of Metropolitan Chicago, offers direct representation on difficult immigration matters. "Immigration law is a rapidly changing area—it's changed three to four times in the past four to five years," said Lisa Palumbo, supervising attorney. "We've gained a staff with expertise on the topic."

The program helps lawful permanent residents avoid wrongful deportation, enables U.S. citizens to unite or stay with family members, advises immigrants with disabilities who wish to naturalize, and, with non-LSC funds, helps battered spouses. The staff of five, including three attorneys, each handle caseloads of 30-50, noted Palumbo.

Pasha's case arose after she fled Albania in 2001 and applied for asylum in the U.S. An observer of the 2000 elections in her home country, Pasha reported election fraud. Immediately upon reporting, she was beaten at the election center by a group of thugs in black masks, who stole the ballot box. Later, she was repeatedly summoned to the prosecutor's office and advised to testify in a certain way or suffer consequences. When she refused, she found herself arrested by secret police. Upon release, she escaped the country, fearing for her safety. But her U.S. application for asylum was denied, largely because of damaging speculation by a document examiner who had no knowledge of the Albanian language or system. The Chicago program agreed to handle an appeal. The case is especially heart-wrenching, said Palumbo, because Pasha, now married to a U.S. citizen, has a two-year old daughter (also a citizen) who is being treated for a rare form of cancer in a Chicago hospital. The treatment would not be available in Albania, said Palumbo.

Legal aid programs in small towns and mid-size cities across the country are also discovering new immigrants in their service areas. This is especially true when a community becomes a refugee resettlement center. Whole new populations of refugees, fully eligible for legal services, often pop up in seemingly unlikely locations.

According to the Office of Refugee Resettlement of U.S. Department of Health and Humans Services, since 1975 the U.S. has resettled 2.4 million refugees. Defined as individuals fleeing persecution in their homelands, refugees are screened outside of the U.S. and, if admitted, are provided with special services in order to build a new life, including placement in resettlement communities. Approximately 100,000 refugees are admitted annually; the State Department spent \$781 million for refugee and migration assistance in 2004.

Permissible Trafficking Related Representation by LSC Grantees

Adult Victims of Trafficking

- May provide representation in the certification process
- May provide representation with legal issues unrelated to trafficking
- Must discontinue representation if the victim is denied certification and is not otherwise eligible for assistance

Victims of Trafficking who are under the age of 18

- No certification available or necessary for victims under 18
- May provide representation without HHS letter of eligibility
- May provide representation to obtain an eligibility letter
- May provide representation with legal issues unrelated to trafficking

Family Members of Victims of Trafficking

- May provide representation to a spouse and/or children of an adult victim (age 21 or older)
- May provide representation to spouse, children, unmarried siblings under the age of 18 and parents of a child victim (under the age of 21)
- May provide representation with legal issues unrelated to trafficking
- Must discontinue representation if the family member is denied a T visa and is not otherwise eligible for assistance



Lowell, Massachusetts became the home to Cambodians admitted for humanitarian reasons. In response, LSC's Merrimack Valley Legal Services Program founded the Cambodian Outreach Project (*see sidebar, page 34*).

The northernmost reaches of Minnesota and North Dakota—where minority populations are traditionally a blip on the census reports—have now become the new homes to a wide variety of international refugees. Lutheran Social Services has sponsored thousands of refugees in Fargo-Moorhead, population 130,000. Over the past ten years, 5,000 families from war-torn and devastated countries have joined the community. A prominent Somali population has emerged. Other refugees are from Iraq, Afghanistan, Kurdish lands, Rwanda, Columbia, Liberia,

Minnesota program is teaming up with LSC-funded Legal Services of North Dakota for a shared lawyer who can focus on the immigration needs of refugees and do outreach to immigrant clients.

ABOVE: Callender hears concerns from members of the Chinese community.

For nearly twenty years, another part of Minnesota has been a nexus for the migration of a distinct refugee population, the Hmong. The Hmong, from countries in Southeast Asia, worked with the CIA during the Vietnam War and after the war ended many Hmong were settled in the U.S. Beginning in 1976, modest numbers were assigned to St. Paul, but a huge secondary migration occurred. By 2000, the Twin Cities had 41,000 Hmong. With the closing of a major Thai refugee camp, the U.S.

“The decision whether or not to help someone should not be made on the basis of his or her language abilities.” —Helaine M. Barnett, LSC President

Sudan and Bosnia. In a phenomenon known as “secondary migration,” refugees often move within the U.S. to join relatives or friends, also contributing to the immigrant population in a single location.

“This was a 98 percent white-Anglo-Saxon community. It’s been an interesting process,” said Doug Johnson, acting executive director of LSC-funded Legal Services of Northwest Minnesota in Moorhead. “There are no lawyers who take immigration cases, no community resources. The nearest immigration lawyer is hundreds of miles away,” said Johnson.

After nearly three years of planning, the Northwest

government made a decision to resettle in Minnesota those with relatives in Minnesota already. Now, a wave is entering again. Another 5,000 to 15,000 Hmong are expected, said Jessie Nicholson, Senior Leadership Attorney for the Refugee, Immigration and Migrant Legal Services Program of the LSC-funded Southern Minnesota Regional Legal Services (SMRLS).

Even with the significant community resources that have developed in St. Paul, resettlement requires many adjustments, said Nicholson. For example, the Hmong youth have had no exposure to education. “The school system reported that it had 600 to 800

continued on page 35

A Cultural Bridge in Massachusetts Cambodian Outreach Program

In his office at Merrimack Valley Legal Services in Lowell, Massachusetts, Samnung Mam has no mementos on the walls from Cambodia, the land where he was born. He left in 1982, escaping with his family by walking through the jungle in the dead of night after years of punishing strife, starvation and forced farm labor under the brutal Khmer Rouge regime and the Vietnamese invaders who succeeded them. “The life? It was like in hell,” he says of those years. “A lot of people were killed at that time. Very painful.”

And he has nothing that speaks of his years in Thailand, where he lived in a hut of thatch and bamboo on a plot of land with 75,000 other people, stuck in a displaced persons camp near the border for ten years. “We lived day by day, week by week. We received rice and salt. People had nothing to do, no income, no work, just wait,” he said. Finally, in 1993, Mam and his family, including his wife and three children, were granted admission to the U.S.

“I did not bring anything. Just bare feet, just nothing. From the camp, I have nothing. No money to buy; nothing,” he says. Cambodia and Thailand are part of an internal landscape now, memories and dreams.

As the director of the Cambodian Outreach Project at the Merrimack program, Mam fills his office with something especially valuable: knowledge of the language, culture, psyche and hearts of the Cambodian people who now populate this New England town. Mam also has an understanding of the American legal system.

“I am a bridge between the Cambodian community and the mainstream, to make them feel comfortable with the legal system, when they never trusted before,” he says. “If you don’t know the Cambodian culture, it’s hard to see through, to see the heart. For

of the Lowell office for provision of specialist services.

In many respects, the need in Lowell was obvious. The city is second only to Long Beach, California, in the number of Cambodian residents—now reaching 20,000. As twenty percent of the town’s population, Cambodians are the largest minority in Lowell, and yet are culturally isolated. Like Mam, most Cambodians or their parents experienced the horrors of the

Khmer Rouge killing fields, watched relatives disappear and others waste away from lack of food or medication. Many, including Mam, were brought to the U.S. as “parolees,” a special immigration status granted for urgent humanitarian reasons and that allows them to work lawfully upon arrival. Many were resettled here by Catholic charities, even though the most are Buddhist.

Mam did not originally arrive in Lowell. He was resettled in North Carolina in 1993 with a sponsor in the military, and began working in a factory. “I found myself very lonely,” says

Mam. “Americans were helpful to me. But there was nobody around that had the same culture, the same language, the same food.” He had a friend in Lowell, and moved. “I was excited to be here. We have Cambodian people, Cambodian markets, Cambodian food.”

But they didn’t have legal services. Even today, there are only two Cambodian lawyers in the state of Massachusetts, says MacIver, adding “and they are not doing legal services.”

Mam also recognized a need for legal services. At first, he pursued a dream that had been robbed from him in Cambodia, where his college studies in pharmacy were cancelled abruptly and universities shut down. He went back to school, working along the way at a health center. “But I found the law was a problem,” says Mam. “I was a ‘parolee’ from a border camp in



Samnung Mam, Director of the Cambodian Outreach Project at Merrimack Valley Legal Services.

The idea of a courthouse was a place where you go to get executed. It was a huge cultural barrier.

—Ken MacIver, Executive Director of Merrimack Valley Legal Services

the Cambodian, it’s hard to trust. But we have to trust. I tell them, justice is justice. It’s hard to convince people to believe that.”

Merrimack Valley Legal Services, which serves 50 cities and towns, took on the Cambodian Outreach Project in 2001, says Ken MacIver, Merrimack’s Executive Director. The program started at Greater Boston Legal Services before being shifted to Merrimack. This office has 20 staff members, including 10 attorneys, he notes. The Cambodian Outreach Project has an approximate budget of \$75,000, with two-thirds supplied by foundation grants, and one-third LSC funds. In addition to Mam, the project includes staff attorney participation, and is integrated into the rest

Thailand, but my status was in limbo. I didn’t know what to do. I saw a lot of problems in the community. I was frustrated. So I decided to help my community.” He entered law school and signed on with the new legal services project.

According to MacIver, his participation is critical to the success of the project which represents clients on basic legal needs such as housing, benefits, elder law, family law, and domestic violence. After a community needs assessment listed education issues as an area of concern, the Lowell office added an education lawyer to the overall staff, says MacIver.

“What distinguished the older Cambodian community is that it

had no concept of a system of justice, no concept about rights and courts. The idea of a courthouse was a place where you go to get executed. It was a huge cultural barrier," says MacIver. "The myth might be that Cambodians are similar to other Southeast Asians. Which is not true. They have their own set of circumstances, which are terrible. We've done a lot of work on cultural competency."

Mam, now a law school graduate, prepares brochures in the Khmer language and coordinates education and outreach programs with the other Cambodian service groups. He translates for clients and attorneys, often advising clients on administrative matters. Sometimes, as with a woman who has fallen behind on her rent because she is not receiving child custody payments, he tries to find social service agencies to help, while the lawyer negotiates with the landlord. He hosts a weekly radio show discussing legal topics.

But most of all, Mam is a "cultural broker," Trang Nguyen, a staff attorney, wrote in the *Journal of Poverty Law and Policy* in 2003. "Far more than just translating, his work as an interpreter served as a cultural bridge to the client, enabling the project team to provide high-quality legal representation."

Mam addresses sticky points, sometimes subtly. "It's my way to explain both sides. The Cambodians do not speak too much. But they hope someone will help them. I say to them, 'if you don't tell them, you cannot expect someone to come and solve it,'" says Mam. "Others look at the Cambodians and say, 'no one is complaining.' The other side says, 'they have no problem, because they did not say anything.' But there are a lot of problems."

This level of social and cultural negotiation affects every aspect of the client-attorney relationship. When the clients come into the office, the attorney, in a gesture of friendliness, will shake hands, says Mam. But instead of feeling welcomed, Cambodian clients feel uncomfortable. "In our culture, we do not shake the hand, especially a man does not shake the hand of a woman," he says.

He continues. "When we talk, we don't look at a face. For us, when you look at a face, it's a challenge. So we don't look at a face. It doesn't mean that it's a lie. It means I don't want to challenge you. We look around. I have to tell the client, you have to look at the lawyer. I tell the lawyer, looking straight to their eyes, just makes them nervous," said Mam.

Gender issues are especially tricky, none worse than when domestic violence is involved. Violence against women is one of the most common victimizations experienced by immigrants, note authors Edna Erez and Carolyn Copps Hartley, in the *Western Criminology Review*. Merrimack has a special program for victims of family violence, but it is often difficult for Cambodian women to describe the situation. "The husband will say, 'it's your fault,' and they believe it," says Mam. Knowing that it is more difficult for a Cambodian woman to discuss the topic in front of a man, Mam sometimes excuses himself from the room.

"The more the attorney knows of our culture, they are more comfortable, friendlier and relaxed," he says.

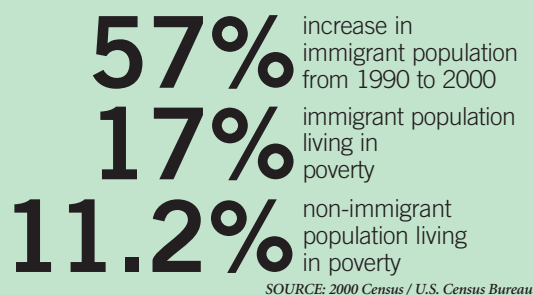
As a result of the in-depth attention paid to cross-cultural experience, the Cambodian Outreach Project has blossomed. "At first, the Cambodians don't know where to go. When they feel comfortable, they tell about the legal system and that we try to help people. When they get something that they want, they try to spread the word out. It's good," says Mam. "Here in a new system, we are learning. We can only solve our problems together."—C.C.

continued from page 33

students who had never been in a school room before. They are just teaching about what it means to be a student. These are unique issues," she said. The program represents Hmong clients on issues ranging from housing to domestic violence, with a special emphasis on family reunification, a SMRLS priority.

The stress and strain that can accompany resettlement may touch down in a legal issue. In Seattle, the Namo family, originally from Ethiopia, encountered problems with benefits that many native born also face. But their unfamiliarity with the language and system causes additional turmoil. After living in a refugee camp in Kenya, the family of 11 moved to Washington, where the father's adult daughter, Rahima Robele lived. "It is very different for them," explained Rahima Robele. "They are so new."

The problem arose when the Namo family went to collect their monthly benefits, which are distributed electronically, and the account was wiped clean. The funds, essential to the Namo family, are withdrawn by a debit card from an ATM. They depended on the monies for food, rent, utilities, clothes and other necessities. But, the state refused to reissue the funds.



"My father was very upset," said Robele. Her father speaks no English. "He said, 'Who stole our money?' He went to the police and they didn't follow up. He was very upset about that. He said, 'What kind of country is that? What do they treat us like this?'"

Through a social worker's referral, they found the Northwest Justice Project, an LSC grantee, where law students from the University of Washington help immigrants as part of the Refugee and Immigrant Advocacy Project, a clinical program. Under the guidance of Gillian Dutton, six law students each year represent clients and undertake research projects, such as writing a booklet to help community workers understand how disabled or elderly immigrants can apply for citizenship, even if post-traumatic stress, Alzheimer's or other medical conditions prevent them from learning English.

Law student Bobbie Edmiston was assigned the Namo case. "The family had never used a credit card or a computer or an ATM or had a piece of plastic as currency. Their daughter always went with them. In this case, a card was issued by the department one day, and the funds were withdrawn immediately from a half-dozen ATMs. A detective said the pattern was consistent with fraud," said Edmiston, who worked with an interpreter and conducted an administrative hearing for the clients. A judge ruled that the social services department incorrectly issued an electronic benefits card to an

continued on page 37

Trafficking Victims: Helping to Stop Abuse

Inside a clothing factory on the outskirts of Los Angeles, with bars on the windows and doors locked all around, Florencia was directed to a small storage room, ten by ten. Party dresses hung on racks there.

But this was no party. This is where she was to sleep at night. Her day began at 5:30 in the morning at a sewing machine, and continued with cutting cloth and cleaning the factory. After 17 hours of hard labor, she was led back to the storage room. In between, she had one meal, rice and beans, and ten minutes to eat it.

"I was enslaved," said Florencia, now 33, originally from Mexico. "I come from a small town. But here I was in a huge country and I was enslaved and no one knew about it."

Florencia had been wooed by a woman who came to her village in 2001. "She invited me to come to the U.S.," she remembered, "She said that I would have a job, a place to live. It sounded great. I had three children, and I had to feed them. As soon as I arrived, everything changed," she said.

The woman demanded \$2,500 from Florencia, which she did not have. Florencia was ordered to work it off at the factory. "She told me if I went to the police, nobody would believe me," said Florencia, who spoke no English at the time. The woman physically abused her, pulling her hair and pinching. "She said if I did *anything* wrong, my family would pay the price and that she knew where my children were. I was afraid."

When federal agents sent an undercover agent inside the factory, after she had spent 40 tormented days there, the govern-

Mexican, Filipino. Most find their way to legal assistance after being rescued by first responders, such as police or nonprofit social services organizations, according to Sheila Neville, staff attorney with the project.

But many trafficking victims are identified only when they seek assistance with some other issue. "Awareness of trafficking is where awareness of domestic violence was 30 years ago. There's a problem with under-identification. We're still raising awareness on this issue," said Neville. "Nobody self-identifies, comes in and says, 'I am a trafficking victim.' They might come in with a domestic violence case, but fit the definition of trafficking."

Without trained intake screeners, legitimate trafficking victims can be turned away as undocumented immigrants, she said. Before the recent trafficking laws were passed, victims had no protection from deportation. Although the program can help them apply for a T visa, the visa's usage remains limited and only 800 have been approved since 2002 when they were first authorized. Yet, once an individual is certified as a trafficking victim by the U.S. Department of Health and Human Services, she is not only protected from deportation, but able to access special financial support. "It's especially important to trafficking victims who suffer from trauma," said Neville.

In order to expand its outreach, LAFLA has a paralegal who works with local community groups to increase trafficking awareness. The outreach is supported by a grant from the Office of Refugee Resettlement of HHS. The program provided direct services to 133 trafficking victims in fiscal year 2004, more than

The Legal Services Corporation has issued updated guidance to LSC-funded programs on how they may represent victims of human trafficking. The guidance is available on LSC's website, www.lsc.gov

"Awareness of trafficking is where awareness of domestic violence was 30 years ago." —Sheila Neville, LAFLA staff attorney

ment closed it. Florencia agreed to testify against the trafficker. "Someone had to stop her," she said. "She kept my dream, my freedom, and no one is allowed to keep your freedom. Freedom is for everyone."

Florencia was a victim of human trafficking, a subject of increasing concern in the United States. The Trafficking Victims Violence Protection Act, or TVPA, was passed by Congress in 2000. Amended in 2003, it increases the criminal penalties for traffickers and provides protection for its victims. By government estimates, there are 20,000 people trafficked into the U.S. every year. The law authorizes legal services programs to represent trafficking survivors regardless of their immigration status.

Human trafficking occurs when someone is brought to the country and compelled or coerced to work in the commercial sex trade, is a minor induced to engage in commercial sex acts, or are persons forced or fraudulently recruited, harbored, or transported for labor or services that subject them to involuntary servitude, peonage, debt bondage, or slavery. Many, like Florencia, are forced into sweatshop factories; others are forced to work in fields and even private homes. Victims may be eligible for a special "T visa" if they assist in the investigation and prosecution of cases, and they are eligible for special government benefits.

The Legal Assistance to Trafficking Victims Project, run by the Legal Aid Foundation of Los Angeles (LAFLA), an LSC-funded program, provides direct representation to victims, such as Florencia. Clients in the trafficking project are from a variety of backgrounds: Thai, Vietnamese, Korean, Central American,

all of the other legal services programs combined, which served another 37 victims, according to a report by the U.S. Department of Justice.

The expertise developed in L.A. is also the basis for training lawyers, police and social service agencies across the country. The "STOP the Traffic: Slavery Training and Outreach Project" was one of only four programs—and the only LSC project—to secure a grant for training and technical assistance on human trafficking from HHS—it has created materials, ranging from a detailed 300 page manual on trafficking laws, procedures, and ramifications, to comic books aimed at community groups.

As a trainer, Neville speaks to groups as disparate as legal services in the Bronx and law enforcement offices in New Mexico. A September 2005 conference in California carries the title "Hiding in Plain Sight: How can we find and protect child victims of trafficking." She said that police officers, who may suddenly encounter trafficking victims in a prostitution bust or other crack-down, ask practical questions—Who should they call? What is the protocol? Where will the victim sleep? "If someone is just liberated from a situation, the first thing they need—if they are physically okay—is a place to stay," said Neville. Then, she will describe a national network of shelters that are available to help.

Florencia, now learning English and working as a store cashier in L.A., wants to send another message. "If someone is in my situation, I want to tell them that help is there. They have to speak out. Legal aid is there, and they could listen to them, like they did to me."—C.C.

continued from page 35

unknown thief, and ordered the funds reinstated. “People are so affected on a survival basis, and face so many obstacles and cultural barriers,” said Edmiston.

Recovering money promised but not paid is a central part of the work of migrant farmworker programs as well. “The most common complaint is that they weren’t paid properly, aren’t getting benefits, were injured or are retaliated against for asserting their rights,” explained Mary Lee Hall, managing attorney of the Farmworker Unit of Legal Aid of North Carolina, an LSC-funded program.

Even here, the face of migrant workers has changed. Traditionally, the 50,000 to 100,000 farmworkers who come to North Carolina each year were from Mexico, Central America and Puerto Rico; others were African American. But, increasingly, growers are turning to Asia, and importing workers from Laos. “We’re accustomed to working with people who don’t speak English and have a different culture. All of our staff is bilingual in Spanish and English, but that doesn’t do much good with the Laotian workers,” said Hall. Thanks to the proximity of the Research Triangle in North Carolina, the farmworker program has succeeded in recruiting competent volunteer translators.

Under the Immigration Reform and Control Act of 1986, agricultural employers are able to obtain “H2-A visas” for foreign workers with whom they contract on a seasonal basis. LSC-funded programs may represent these guest workers on employment-related matters.

Seven staff members, including three lawyers, crisscross the state, meeting farmworkers at labor camps and ushering them to a private space—sometimes a car—for consultations. Teams are onsite four nights a week at the



actually in violation of their contract,” said Hall. The program sued on behalf of nine clients, asserting that the blacklisting violated state and federal laws. The case was settled when the growers agreed with a farm labor union to eliminate the blacklist.

In California, nearly a half-million farmworkers and dependents are in the potential client pool, Executive Director Jose R. Padilla of the LSC-funded California Rural Legal Assistance told a Congressional subcommittee in 2004. Many face “egregious and shocking situations,” he said, describing the situation of 400 asparagus pickers at a farm labor camp. They had, said Padilla, no functioning toilets or showers,

ABOVE: (L to R) Susana Martinez, LAFLA; Michelle Favis, LAFLA; Imelda Buncab, Coalition to Abolish Slavery and Trafficking; Ambassador John R. Miller, Director, Office to Monitor and Combat Trafficking in Persons, U.S. Department of State; Sheila Neville, LAFLA.

Farmworkers approached the migrant program in 2004 because they were blacklisted by an association of 1,000 growers if they made a single complaint.

peak of the season, said Hall. As Carolina agricultural workers harvest many crops—blueberries, tobacco, sweet potatoes, Christmas trees—migrant workers are in the fields from April until December.

In 2004, the program reached 15,000 migrant workers, met with 2,200 workers, and handled 125 cases. Educational leaflets provide information about common problems: worker’s compensation, food stamps, on-the-job injuries, and health concerns such as pesticides, heat stress, “green tobacco” sickness.

Farmworkers approached the migrant program in 2004 because they were blacklisted by an association of 1,000 growers if they made a single complaint. One worker complained about a lack of water in the field. Others said they were required to ride on a grower’s bus and pay a fee, and were blacklisted if they did not. “They would then be foreclosed from any employment with any grower. It was

unsecured doorways, a filthy kitchen, and were owed months of back wages. The legal services program secured improvement in housing and recovered unpaid wages.

Recovering children who are whisked away is a much harder task, especially if they are moved across borders. The Hague Convention, created in 1980, ratified by the U.S. and supported by groups such as the National Center on Missing and Exploited Children, is supposed to help, but “people don’t know about this remedy,” said Pamela Brown, an attorney with LSC-funded Texas RioGrande Legal Aid in Weslaco, Texas.

Brown now directs the Bi-National Project on Family Violence, which began in 2002 and has developed unique measures to assist battered spouses (or other parents in violent situations) whose children have been taken across the border by the abusive parent using the Hague protocol. “We’re located on the

continued on page 41

street. He got this client his railroad retirement benefits so the client could survive, and he got an enormous amount of satisfaction out of it.”

Unfortunately, funding crunches, program priorities and time constraints conspired to kill the SAV Program just two years after it started, he says. Over ten years later, Holliday characterizes it as one of the highlights of his 29-year tenure. “They were experienced, mature lawyers serving elderly clients in need, and the match was perfect. It made me a better lawyer.”

He also points to the support he received from his grantor as vital. Legal Counsel for the Elderly Director Jan May, along with Edelstein, his cohort at the ABA, worked as a “dynamic duo,” offering him invaluable advice concerning structural and operational issues, he says.

Edelstein and May are long-time collaborators on this issue. In concert with the original Ford Foundation grant that funded model programs such as the one in Nashville, they produced a manual on the subject over a decade ago which has essentially become a how-to guide for prospective volunteer attorneys. “We collected information about programs, we wrote articles about the obstacles and how to overcome some of those. We included in the manual information about the project itself and management materials. One of the big issues was—and is still—how do you recruit these volunteers? What kinds of work they might do, offering flexibility in hours, the kinds of cases they might handle, those kinds of things,” he recalls. They are currently updating the manual to reflect the changes of the past decade.

One such change involves the increase in funding options. In addition to partnerships with LSC grantees, senior volunteer lawyer organizations may also be eligible for funding from Interest on Lawyers Trust Accounts (IOLTA), the U.S. Administration on Aging (which includes the Older Americans Act and Senior Hotline) and a variety of other federal, state, local and private funds.

The ABA also seems to be taking a more active role. In a speech to the House of Delegates at the ABA’s annual meeting in August, President-Elect Karen Mathis labeled one of her priorities the “Second Season of Service.” Mathis stated, “The retirement of this generation of lawyers will place special strains on the legal system. Statistics suggest that as many as 40,000 lawyers a year will begin entering ‘active retirement.’ [This] describes lawyers with plenty of energy and experience to offer,” she continued. “I will ask lawyers departing from practice to enter a Second Season of Service.”

Pledging the resources of the ABA to assist in such a transition, Mathis also proposed the creation of an online matching service to pair senior volunteer attorneys with legal services organizations.

Still, the key to successful recruitment is the personal touch, says Ginsburg. These days, he finds himself making fewer and fewer phone calls to add to his panel.

“It keeps expanding, and now it kind of works on its own. I don’t have to go around chasing people; they call me!” Ginsburg chuckles.

Maybe now he can work in the occasional round of golf. ■

continued from page 37

border with Mexico and started seeing cases of abduction. No one knew how to handle them,” said Brown. “The cases involve victims of violence where the father or opponent has taken the children to Mexico and the ‘left behind’ parent is trying to get their children returned. Abusers use the border as another way to exercise power over vulnerable women.”

One of the program’s clients, Maria (not her real name), had escaped her husband’s violence by fleeing to a shelter for battered women with her two children. After two months, she moved to a new residence, but the husband learned its location. While Maria was at work as a stock clerk in a 99-cents store, the spouse went to her house, cut the phone lines, and told the babysitter he was there to take the children to the doctor. He stole Maria’s car and drove to Mexico. Under pressure, the husband returned one child, but refused to release the other. The mother is even unsure where the child is in Mexico. “It’s so awful,” said Brown.

Worldwide, the largest number of international child abductions occur across the U.S.-Mexican border. But few lawyers, especially for women in need, know how to navigate the Hague Protocol. LSC regulations permit programs to represent eligible clients in Hague Convention proceedings. In Maria’s case, Brown filed a petition and documents in English and Spanish with the U.S. State Department in Washington. After a review, the State Department delivered the documents to a counterpart in Mexico, where the case was assigned to a local judicial investigator. The Mexican authorities, through their own proceedings, can opt to hold a hearing, and order the child returned, a sometimes prolonged process.

According to the National Asian Pacific Legal Consortium, more must be done to enable the justice system to meet the vast needs of the immigrant community. The community “faces devastating consequences by inadvertently becoming more vulnerable and more disenfranchised than ever before,” it says.

The consortium makes specific recommendations, including a much enhanced system of trained interpreters throughout the legal system and enhanced funding for legal services programs to build a comprehensive language access program.

The consortium also calls for big-picture changes. “Congress should lift restrictions preventing LSC recipients from addressing the legal needs of individuals with certain types of immigration status,” it states. Limitations on the use of private funds, it says, are especially burdensome and have a “devastating” impact on immigrant communities. “The time has come to fulfill the legal system’s promise of equal access for all,” it concludes.

Rahima Robele, whose newly-arrived refugee father found the justice he hoped for through legal assistance in Seattle, also had a message. “They do a very good job,” she said. “My father really appreciates that. He said, ‘I’m going to say thank you to them one day if I speak English.’ They helped us a lot,” said Robele. ■

Cynthia L. Cooper is a journalist in New York, who specializes in topics of human rights and justice. With a background as a lawyer, she worked for legal services for two and a half years.